

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEPHEN R. KERN,)	
)	
Plaintiff(s),)	Case No. 2:13-cv-00855-RFB-NJK
)	
vs.)	ORDER
)	
CLARK COUNTY SHERIFF, et al.,)	(Docket No. 36, 37, 38)
)	
Defendant(s).)	
)	

Pending before the Court are Plaintiff's motions for assistance in serving Defendant Martinez. Docket Nos. 36, 37. Also pending before Court is Plaintiff's motion to extend time. Docket No. 38.

Plaintiff is proceeding in this action *pro se* and *in forma pauperis*. See Docket No. 9. On October 11, 2013, Plaintiff filed an amended civil rights complaint. Docket No. 14. On May 5, 2014, the Court reviewed Plaintiff's amended complaint under 42 U.S.C. § 1983. Docket No. 16. Federal Rule of Civil Procedure 4(m) requires courts to dismiss an action against a defendant if she "is not served within 120 days after the complaint is filed." Thus, the Federal Rule of Civil Procedure 4(m) dismissal deadline for this case was April 24, 2015, until it was extended to August 24, 2015. See Docket Nos. 27, 29.

On March 25, 2015, the U.S. Marshal ("USMS") filed a status of service, stating that Defendant Martinez was not served because the USM-285 forms Plaintiff submitted were defective. Docket No. 26. On April 27, 2015, Plaintiff filed unexecuted USM-285 forms. Docket No. 30.

1 Again, the USMS informed Plaintiff of the information that he must provide for process to be
2 served. *See id.*, at 2. On July 22, 2015, Plaintiff filed his first motion requesting assistance in
3 serving Defendant Martinez, which the Court granted. Docket Nos. 31, 32. The Court ordered the
4 Las Vegas Metropolitan Police Department (“LVMPD”) to file a notice including: “(1) the names
5 of the defendants for whom it accepts service; (2) the names of the defendants for whom it does not
6 accept service; and (3) the names of the defendants for whom it is not accepting service but for
7 whom it is filing last-known address information under seal.” *Id.*, at 2. Further, the Court extended
8 the Rule 4(m) dismissal deadline to October 23, 2015. *Id.*, at 3. LVMPD complied, filing a notice
9 indicating it did not have last-known address of Defendant Martinez because she is not, and was not,
10 an LVMPD employee. Docket No. 33. Plaintiff then filed his second motion requesting assistance
11 in serving Defendant Martinez. Docket Nos. 36, 37. These are the motions currently pending before
12 the Court.

13 An incarcerated *pro se* plaintiff proceeding *in forma pauperis* is entitled to rely on the USMS
14 for service of the summons and complaint. *Puett v. Blandford*, 912 F.2d 270, 275 (9th Cir. 1990).
15 Plaintiff need only provide the necessary information to help effectuate service. *Ellsworth v.*
16 *Kendall*, 2012 WL 1831524, at *2 (D. Ariz. May 18, 2012). “The Court is not required to, and in
17 fact cannot, act as an investigative body to determine correct addresses for defendants.” *Antonetti*
18 *v. Las Vegas*, 2015 WL 247806, at *3 (D. Nev. Jan. 16, 2015). But, if there is sufficient information
19 to identify the defendant to be served, the Court can direct LVMPD to facilitate the U.S. Marshal’s
20 service of process. *See id.*, at *3.

21 Here, Plaintiff offers an LVMPD Inmate Grievance Form bearing Defendant Martinez’s
22 signature. Docket No. 36 at 4. Moreover, the U.S. Marshal represents that “Food Service
23 Administrator Peggy Martinez is a contracted employee and LVMPD will not accept [sic] on her
24 behalf.” Docket No. 30 at 2. Therefore, the Court directs LVMPD to file, under seal, the last-
25 known address of Defendant Martinez’s employer – the food service provider for Clark County
26 Detention Center – whose services on or around November 1, 2012 are at issue here. *See* Docket
27 No. 36 at 4.

28 Accordingly, for good cause shown,

IT IS ORDERED THAT:

1. Plaintiff's motion for assistance in serving Defendant Martinez (Docket No. 36) is hereby **GRANTED**.
2. The Clerk of the Court shall serve a copy of this order and a copy of the amended complaint (Docket No. 14) on the Las Vegas Metropolitan Police Department, c/o General Counsel, 400 S. Martin L. King Boulevard, Las Vegas, NV 89106.
3. LVMPD shall file a notice, no later than **October 30, 2015**, advising the Court and Plaintiff of the name of the food service provider of the Clark County Detention Center for whom it is filing last-known address information under seal.
4. No later than three days after the receiving last-known address, the Clerk of the Court shall issue summons on Defendant Martinez and deliver the summons to the USMS.
5. Within thirty days after receiving the summons for Defendant Martinez from the Clerk of the Court, the USMS shall attempt to serve the summons and amended complaint on Defendant Martinez. The USMS shall provide Plaintiff with a Form USM-285 (without listing Defendant's employer's address) indicating whether service was effected.
6. Plaintiff shall file the Forms USM-285 within ten days after receiving them from the USMS.
8. Plaintiff's motion for assistance (Docket No. 37) is hereby **DENIED** as moot.
7. The Court hereby **GRANTS** Plaintiff's motion to extend (Docket No. 38), and **EXTENDS** the Federal Rule of Civil Procedure 4(m) deadline by 60 days, to **December 22, 2015**.

DATED: October 16, 2015



NANCY J. KOPPE
United States Magistrate Judge